

REMARKS

In response to the aforementioned office letter and first addressing the issues raised by the Examiner in that section entitled "Detailed Action", the Examiner appears to strong issue with the statements made by the applicant, particularly the applicant's undersigned attorney of record. The docket sheets which were provided and the docket system which is maintained by the undersigned attorney only docket actions when they are due. They are not docketed when they come in. As a result, there is no entry in the log for the month of April.

With regard to the twenty-one day delay, the applicant's undersigned attorney would point out that in that period of time, the applicant was experiencing numerous mail problems, as well as others in the same office building. The applicant's undersigned attorney even wrote to the local post office rather bitterly complaining about the problem. The problem has apparently since been resolved.

With regard to the restriction requirement, it is urged that the species restriction only dramatically increases the amount of effort to be encountered by the applicant as well as the U.S. Patent and Trademark Office in claiming individual groups as the Examiner proposes. In order to protect its rights, the applicant has filed a petition to the Commissioner of Patents with respect to this restriction requirement.

However and notwithstanding the foregoing, it is respectfully urged that these covers are designed to be in compliance with the Americans with Disabilities Act. Covers that do not comply with the ADA would probably have little market value. In short, the covers must cover the entire pipe in that portion where hot water might exist or where the potential for other physical injury could exist. Thus, if only one of the two pieces were used, the cover system would be virtually useless. In all cases, the L-shaped piece and the J-shaped piece are used together and they must be used together. It is for this reason that the two pieces are provided with a coupling to enable the two pieces to be coupled to one another. Otherwise, there would be no need for the coupling.

With regard to the use of these pieces separately, the applicant would invite the Examiner to show one instance in which only one of the two cover pieces is used. It is respectfully urged that the Examiner cannot do so. As a result, it is believed that the species restriction requirement is completely without justification and should be withdrawn.

With regard to the claims, it is impossible for the applicant to claim only one of the pieces alone to provide a complete system. Claims added during the prosecution of the application may ultimately claim both pieces and applicant would be entitled to claim such.

The jacket may be claimed broadly but that does not mean that there is only one jacket section. The Examiner's argument that

since there are not two jackets specifically identified in each claim they are treated separately. Such is a fiction. Whether or not the applicant claims one, two or five jacket sections, the fact still remains that there are jackets which are used to cover the entire pipe assembly. It is therefore believed that the restriction requirement would only unduly multiply the efforts of the U.S. Patent and Trademark Office and of the applicant.

The Examiner's action in bringing the informalities under 35 U.S.C. 112 to attention is sincerely appreciated. The applicant has made other changes to avoid other noted informalities as well.

With regard to double patenting, upon allowance of Claim 31, a terminal disclaimer can and would be filed.

Claims 22-25 were rejected as being anticipated by Wendell. Contrary to the argument that Wendell has apertures and fasteners to lock the portions of the jacket at the elongate slit together, the applicant agrees that both the device of Wendell and that of the instant application have such fasteners. However, clause (d) of Claim 22 specifically recites that the first jacket is locked to the second jacket. Such is not shown by Wendell. Moreover, the missing teachings are not taught by Trueb.

It is to be noted that Claims 22-27 call for the fastener to extend between opposed sides of a longitudinal slit on the first jacket. In short, the fastener never extends into the second jacket. Indeed, there is a clamping action which is provided. In addition, please note that the claim also calls for the fact that

the first jacket is clamped about an end portion of the second jacket.

In contrast to Trueb, it is to be noted that the fastener 44 (see Figure 5 of Trueb) extends between the two jacket sections and locks one of the jacket sections to the other. The disadvantage of this arrangement is that the head of the pin 44 can also become hot if the tail end contacts the pipe. In the arrangement proposed by the applicant that disadvantage does not exist. Allowance therefore is respectfully solicited.

Claims 31-33 were rejected on the basis of the Helmsderfer U.S. Patent No. 5,564,463. However, it is to be noted that in Helmsderfer the patent is not completely clear as to the length of the ribs. Admittedly, the ribs are seen in Figures 2, 3, 6a, 8 and 9. Beyond this, the ribs are not shown and in all of the view where they are shown, it does not show that the ribs extend substantially for the full length between the open ends of each cover piece. However, it is to be noted that in the instant application (please see Figures 21 and 51) that the ribs are interrupted in regions of large curved portions where the jacket then extends in a different direction. Inasmuch as Helmsderfer is silent on this aspect of the invention, it is believed that Claims 31-33 are allowable and allowance therefore is respectfully solicited.

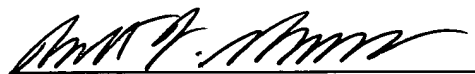
The applicant has amended the remaining claims in the application inasmuch as it is believed that the Examiner has erred in maintaining the restriction requirement. Hence, it is believed

that all claims in the application now patentably distinguish over the art of record. To this extent, the applicant again urges reconsideration of the restriction requirement. In that same respect, the Examiner's attention is invited to, for example, each one of the Trueb et al. Patents cited in the prosecution of this application as well as each one of the Helsmderfer Patents. It can be observed that the two pieces of the jacket are always used together. There is no case in which they are not used together. Thus, the Examiner's distinction is an artificial one at best and reconsideration is urged.

In view of the foregoing, favorable reconsideration and allowance is respectfully solicited.

Dated: April 21, 2004

Respectfully submitted,



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